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MEMO ENDORSED
P. 2

January 29, 2008

BY HAND

Hon. Richard M. Berman
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St., Room 650
New York, NY 10007

Re: Seaton Insurance Company v. Cavell USA Inc.,
Civil Action No. 07:cv07032 (RMB) (KNF)

Dear Judge Berman:

We represent plaintiffs in the above-referenced matter.¹

We recently learned that defendants have commenced an action in the United Kingdom (the "English action") that seeks to adjudicate issues that are in dispute in this action. (A copy of the notice of the Claim Form filed in the English action is annexed hereto.) As the Claim Form makes clear, Randall and Cavell (the defendants here) seek to litigate in the United Kingdom the identical issue that is the subject of their pending motion to dismiss in this proceeding, namely whether the forum selection clause in a term sheet requires Seaton and Stonewall to litigate their common law fraud claims in London.

As the Claim Form indicates, the English action was commenced on November 20, 2007, *a month after defendants filed their motion to dismiss in this action*. Interestingly, however, defendants did not serve the Claim Form on Seaton and Stonewall until January 10, 2008 -- a few days after the motion to dismiss was fully briefed. Thus, it appears that defendants deliberately sat on the English action until after the motion before this Court was fully briefed and, only then, did they serve the Claim Form on plaintiffs here, perhaps recognizing the futility of their motion before Your Honor.

The English action is a blatant attempt by defendants to engage in forum shopping and to avoid the jurisdiction of this Court. Moreover, allowing defendants to proceed in this fashion would require plaintiffs to incur needless additional expense by appearing in a duplicative action in

¹ My appearance on behalf of plaintiffs is being filed with the Court today.

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England. Plaintiffs respectfully suggest that it would be unfair and improper to allow defendants to proceed in such a fashion, as numerous courts in similar circumstances have previously concluded. See e.g., Ibeto Petrochemical Indus. Ltd. v. M/T Beffen, 475 F.3d 56, 64-65 (2d Cir. 2007) (issuance of antisuit injunction was proper, inter alia to deter forum shopping); Nagoya Venture Ltd. v. Bacopulos, 1998 WL 307079 at *5 (S.D.N.Y. June 11, 1998) (enjoining defendants from further prosecuting two Canadian actions which were “little more than efforts at vexation and harassment”); American Home Assur. Co. v. Insurance Corp. of Ireland Ltd., 603 F. Supp. 636, 643 (S.D.N.Y. 1984) (enjoining defendants from proceeding with action in the United Kingdom because the foreign action would likely “engender considerable vexation and injustice”).

Prior to making this application, we sought to resolve the dispute with counsel for defendants in this action by asking defendants to agree to voluntarily stay the foreign action until Your Honor is able to decide the pending motion to dismiss. They have advised us that they have raised our request with their clients' counsel in the U.K. action, but that they do not anticipate that U.K. counsel would be included to grant such a stay. We are therefore writing to you today to request a pre-motion conference at which we intend to ask the Court for permission to file a motion on an expedited basis to enjoin defendants from proceeding with the English action. We request that the conference be scheduled at the Court's earliest convenience.

Respectfully submitted,

Lawrence I. Brandes /s/

Enclosure

cc: Ira G. Greenberg, Esq. (By Facsimile) _____
Vincent J. Vitkowsky, Esq. (By Facsimile) _____

DEFENDANTS TO RESPOND WITH
A BRIEF (2-3 PP) LETTER
(By Facsimile) BY 2/1/08.

SO ORDERED:
Date: 1/29/08 Richard M. Berman
Richard M. Berman, U.S.D.J.